

American Recovery and Reinvestment Act of 2009 (ARRA)

State Energy Efficient Appliance Rebate Programs

Questions

(Last updated September 7, 2011. New information appears at the bottom of this document.)

Applying for Funding

1. Who is eligible to receive the Appliance Rebate Program funds?

Only the 50 U.S. States, 5 Territories, and the District of Columbia may apply for the funds. For the purposes of this posting, the term, “State” refers to all these eligible entities: States, Territories, and the District of Columbia.

2. Is it only the State Energy Office that may submit the application, or can another State agency be identified as a State’s lead for this program?

The State Energy Office may designate another agency (in its State) to apply for and implement the Energy Efficient Appliance Rebate Program. The designated agency must include a concurrence letter to this effect from the State Energy Office with its initial application.

3. How do States apply for the funds?

Each State must submit an initial application (SF-424) to DOE by August 15, 2009. All initial applications must be submitted via e-mail to: recovery@id.doe.gov. Please note these are not to be uploaded using the IIPS system. The comprehensive application is due by October 15, 2009. All comprehensive applications must be submitted through www.fedconnect.net. States are encouraged to apply early, as funds will be awarded when program plans are deemed acceptable.

Filling out the SF-424

4. What funding level should States request in their SF-424, the “rounded” or “not rounded” values?

States should use the “rounded” figure shown in Attachment 3 of the Funding Opportunity Announcement (FOA). The “not rounded” figure was shown only to assure applicants that the formula was applied fairly and transparently.

5. How can administrative costs be included on the initial SF-424 if program designs are not yet established?

For the initial application, State Energy Offices are not required to delineate administrative costs. Applicants should enter the total funding allocation “rounded” as shown in Attachment 3 of the FOA.

6. How should States report administrative costs on the final SF-424? Should the State share and federal share of the administrative costs be shown separately?

States should report total proposed administrative costs, and then delineate the portion for which DOE funds will be used. As specified in the FOA, the DOE share of administrative costs is limited to 50% of the total identified administrative costs.

7. What should be entered in the section on Site Location?

States should enter the congressional district in which the State Energy Office is located.

8. Who signs the SF-424?

The head of the State agency submitting the form, or whoever is authorized to sign on his or her behalf, should sign the SF-424.

9. Will DOE award the funds on a rolling basis?

Yes. DOE will award 10% of a State's allocated funds upon receipt of the initial application. DOE plans to have this initial phase of funding awarded by September 30, 2009. DOE will award the final 90% of funding on a rolling basis as plans are approved, with the aim to award all funds by November 30, 2009.

Administrative Costs

10. What is considered an administrative cost?

Administrative costs include the specific costs necessary to administer the rebate program, and include the costs for designing programs, disbursing funds, conducting outreach, and reporting. States should specify how their estimated administrative costs are further broken down among State labor, subcontractor costs, and other direct costs (travel, supplies, materials, ad placement, etc.). Direct recycling costs are not considered administrative; however, expenses incurred in administering a recycling program are indeed considered administrative. Administrative costs will be reported and specified among: accounting, processing, marketing, education, and tracking.

11. Should States include their federally-approved indirect cost rates in their administrative cost budget?

Yes. As with other grant requests, States may apply their indirect cost rates to their total proposed administrative costs.

12. If a State is outsourcing (hiring as a subcontractor) some or all of its program to a utility, how are the administrative costs determined?

The utility should calculate the incremental costs it will incur due to the inclusion of the additional American Recovery and Reinvestment Act (ARRA)-funded activities. That incremental portion may then be included in the State's budget as an allowable administrative cost. Such costs would be listed as a subcontractor cost. DOE reporting requirements remain in effect: all cost categories must be listed. Reporting remains the responsibility of the State Energy Office.

13. Can a State co-promote the ARRA rebates along with other State initiatives? If yes, how are the costs included in the administrative budget?

If co-promoting the ARRA-funded programs along with another State initiative (e.g., a loan program, state tax credit, or state sales tax holiday), the ARRA funds should be used to expand or supplement previously planned promotion efforts, rather than supplant or replace funds already budgeted.

14. Is there a limit on administrative costs as a percentage of total budget?

States are advised to minimize administrative costs in order to maximize rebate funds to consumers. States are further advised to keep administrative costs within ten to twenty-five percent of their total program costs. For example, if a State's total program budget is \$2.0 million, then the total administrative costs should not exceed \$500,000. In this instance, DOE funding would cover only \$250,000, which is half of the total administrative cost estimate, and \$1.75M would be received by consumers in the form of rebates.

15. Must States share any of the program costs?

Yes. States are responsible for covering 50% of the identified administrative costs. Their federal allocation may fund the full cost of all appliance rebates as well as the remaining 50% of the administrative costs.

16. May States use SEP grant money to fund their 50% cost share on administrative costs?

No. Federal funds, such as SEP grant money, may not be used for the State's portion of the costs.

17. Can an entity other than the State provide the funds for the 50% share of administrative costs?

Yes. States may partner with other organizations (e.g., retailers, manufacturers, or utilities) that agree to cover the required cost share on the State's behalf. Signed letters of commitment from the other organization(s) must be included in the full application. In the case of a retailer funding these costs, the State must disclose potential conflicts of interest. The State, for example, must not disadvantage other retailers to the advantage of a single retailer covering the costs. Furthermore, even if a State outsources the administrative expenses, the State is still responsible for reporting to DOE.

18. Can the contribution toward administrative costs be "in kind" rather than an actual financial payment?

Yes. States must delineate all administrative costs and indicate those considered "in-kind." Any arrangements for in-kind support from third parties should be explained fully in the comprehensive application.

Program Design

19. What appliances can qualify for the rebates?

States have the flexibility to select which residential ENERGY STAR qualified appliances to include in their programs and what rebate amount to assign for each. In addition, the program allows States to include products for cold climates (discussed below). DOE recommends that States select from among the following residential ENERGY STAR qualified appliance categories:

- Boilers
- Central air conditioners
- Clothes washers
- Dishwashers
- Freezers
- Furnaces (oil and gas)
- Heat pumps (air source and geothermal)
- Refrigerators
- Room air conditioners
- Water heaters.

20. Can DOE provide more specific state-level information about the recommended products?

Yes. DOE will provide an Excel spreadsheet tool to help States assess local market size and energy savings potential.

21. How will States report? Will DOE provide a template for reporting?

Yes. DOE will provide a template for reporting for use in both submitting their initial program plan budget and their ongoing tracking reports.

22. If a State includes appliances from the recommended list in its program, what type of explanation or justification must be included in the Program Plan?

States are not required to explain further or otherwise justify their plans when including appliances from the recommended list. States will find that these items provide a “fast track” to Program Plan approval.

23. If a State wants to include an ENERGY STAR appliance not on the recommended list, what type of justification must be provided in the Program Plan?

This program is based on Section 124 of the Energy Policy Act of 2005 (Epack 05) and seeks to target residential appliances, rather than consumer electronics or elements of the building envelope. States that seek to offer consumer rebates to other ENERGY STAR product categories not explicitly named in the FOA should provide a thorough justification for their selection. States should describe why that ENERGY STAR appliance will provide significant benefits to the State and include information on incremental costs and benefits. The information in the FOA’s Appendices on the recommended appliances for program inclusion provide guidance on how such justification for other appliance or product categories could be presented.

24. The legislation refers to “cold climate products.” What are these and may they be included?

Section 124 of EPCA allows States to provide rebates for additional non-ENERGY STAR products that provide energy savings in cold climates. If a State seeks to include a cold climate product in its program, it must explain its reasoning (energy savings, benefits, etc.) in its Program Plan in a manner similar to the expanded justification described above.

25. Does the Buy American provision apply to the Appliance Rebate Program?

The Buy American provision does not apply to the Appliance rebate program. The Buy American provision generally applies to materials used in public works projects.

26. How is the term “consumer” defined for this program?

A consumer is an individual who purchases, uses, maintains, and disposes of products or services.

27. Can rebates be paid to local weatherization Community Action Agencies?

States must deliver the rebates to individual residential consumers. Rebates may not be paid to commercial or institutional organizations or Community Action Agencies.

28. May States award the rebate funds using upstream manufacturer “buydowns” or retail “markdowns?”

No. These are not consumer rebates. Such programs for manufacturer buydowns or retail markdowns do not provide specific flow of funds to consumers required by this legislation. Traditional “buydown” or “markdown” programs (sometimes used by utilities for their lighting programs) cannot confirm that rebate dollars reach eligible residential consumers.

However, States can direct rebate funds to retailers in order that they can process point-of-sale rebates. The rebates must be clearly identified at the point of sale as the State rebate (rather than a retailer promotion or some other incentive program) and must be tracked and reported. If pursuing this path, States should develop program guidelines for retailers, then offer the same arrangement to any retailer that can meet the requirements.

29. Does this program fund recycling of used appliances?

States must target their programs toward the replacement of appliances, as the legislation guides. In addition, DOE encourages States to include in their program recycling of used appliances, particularly refrigerators and room air conditioners. This will help remove old, inefficient appliances from the electric grid, and ensure the refrigerants in these products are properly captured.

30. May States use ARRA funds to pay for product recycling?

The costs to *administer* the recycling component of a State program may be included as an administrative cost.

31. Can States outsource, or hire as subcontractor, the delivery of their programs to local utilities or third-party implementers?

Yes. States may contract with third-party administrators or utilities to run their rebate programs. However, the State is still responsible for tracking and reporting to DOE. If working with utilities, States will need to ensure all consumers in the State are eligible for the rebates.

32. May a State outsource, or hire as subcontractor, the delivery of its program to another State?

No. However, coordination or sharing of administrative costs with a neighboring State is allowed. Each state is still individually responsible for tracking and reporting on its program.

33. May a State use these new ARRA funds to expand current State or utility programs?

Yes. ARRA funds may be used to supplement existing State or utility programs. Such activity could include adding product categories, funding a greater number of rebate payments, or layering a higher rebate payment for a more efficient appliance. However, it is not acceptable to use ARRA funds to replace or supplant existing program funding. Any plans to supplement or expand existing programs should be clearly delineated in the program plan, with a clear description of the baseline program and the expanded program.

34. How should States handle the NEPA provision? Are they exempt from this because the activities fall solely within a single state?

Reviews under the National Environmental Policy Act are not required for the Appliance Rebate Program.

35. When must the States launch their programs?

Once funds are received States can begin their programs. There is no specific deadline for program launch, but DOE encourages States to develop programs that can be deployed quickly.

36. How long do States have to spend their money?

The final deadline for use of all ARRA funds, including the Appliance Rebate Program is February 2012 (36 months from enactment of the ARRA legislation). States are encouraged to expend their funds as quickly as is prudent.

37. What do States need to track and report to DOE?

The FOA outlined elements that must be reported quarterly to DOE, but the reporting guidelines were updated in a document titled "Reporting Guidance for States and Territories" dated November 25, 2009. The document is incorporated in each State and Territory grant award, and can be found on the DOE Web site:
http://apps1.eere.energy.gov/states/appliance_rebate.cfm.

38. How often are the reports due, and where are they submitted?

Program financial and progress reports will be due quarterly, with the first one to be submitted to DOE on 01/30/2010. All quarterly reports should be submitted to the DOE Procurement Services Division (PSD): psdrept@id.doe.gov and to lani.macrae@ee.doe.gov. The November 25, 2009 Reporting Guidance document also specifies a Special Progress Report due on July 30, 2010, and a Final report due 90 days following program completion. States must also submit Section 1512(c) Recovery Act Reports to the Office of Management and Budget. These reports are submitted quarterly at www.federalreporting.gov. (Revised 6/30/10)

39. Can States use the ENERGY STAR logo in their program materials?

Any organization that has joined the ENERGY STAR program may use the logo in its materials. Thus, States that have joined the ENERGY STAR program may also use the logo in their materials. Many States are already partners, but if your State is not, you may join for free by downloading and submitting the Partnership agreement for Energy Efficiency Program Sponsors, which can be found at:

http://www.energystar.gov/index.cfm?c=join.reps_agree

40. Can the applicable appliances under this ARRA program include commercial appliances, such as vending machines, commercial ovens and ice makers?

No. This program is targeted at residential consumers and may only include residential appliances.

41. Can the rebate program be used to promote other residential ENERGY STAR products, such as set top boxes or TVs?

If a State or Territory wishes to spend rebate dollars on ENERGY STAR qualified products not specifically listed in the FOA, it must provide a thorough justification for doing so in its Program Plan. The State should describe why the product(s) will provide significant benefits to the State and include information on incremental costs and benefits. The Program Planning Excel Spreadsheet illustrates how such justification for other appliance or product categories could be presented.

42. What's the difference between a "high-efficiency" gas storage water heater and a "high-performance" gas storage water heater?

A high-efficiency gas storage water heater is one that meets the current ENERGY STAR criteria (Energy Factor of 0.62 or greater). A high-performance gas storage water heater meets the next phase of the ENERGY STAR criteria, which takes effect on September 1, 2010 (Energy Factor of 0.67 or greater).

43. Does the ENERGY STAR program cover electric storage water heaters (such as the Marathon unit)?

No, ENERGY STAR does not include conventional electric storage water heaters. The only type of electric water heater in the program (aside from solar with an electric back-up) is the heat pump water heater, with a minimum Energy Factor of 2.0 and a first-hour rating requirement of 50 gallons per hour. Listings of ENERGY STAR qualified water heaters can be found at www.energystar.gov/waterheaters.

44. Can solar water heaters be included and can they be qualified at a higher level than just ENERGY STAR?

Yes, ENERGY STAR qualified solar water heater systems may be included in a State's program, and a State may choose to offer rebates for efficiency levels above ENERGY STAR.

45. When the ENERGY STAR criteria changes, do the older ENERGY STAR models that no longer meet the new criteria lose their ENERGY STAR qualification?

Yes. The ENERGY STAR criteria will be changing on September 1, 2010 for gas storage water heaters and on January 1, 2011 for clothes washers. A State should take these established changes into account when deciding on eligible products and rebate levels for its Program Plan. (Revised 1/18/11)

46. What are the threshold requirements a State must meet for ensuring rebates are for replacement? Can a State allow rebates for appliances where a previous unit did not exist?

SECTION 124 OF THE ENERGY POLICY ACT OF 2005 (EPACT), which established DOE support for the State Rebate Program, specifically requires that rebates go to new appliances that are replacements for used appliances of the same type. Accordingly, States must design their programs to ensure rebate eligibility is limited to consumers who are replacing an existing appliance. At a minimum, the State must include appropriate replacement language in all eligibility definitions, marketing materials, and application forms, e.g., "Rebates are for purchases to replace an existing appliance only." Additional activities beyond this, such as requiring haul-away/disposal of the old appliance, are also encouraged.

47. Does a State have to offer uniform rebate payments statewide?

Yes. If a State will be providing rebates for a given product category, the rebate must be available on that product everywhere in the State. For example, a State should not offer a water heater rebate in only certain utility territories. In addition, to ensure fairness to taxpayers and ratepayers, and reduce complexity of administration and monitoring to the State, the same rebate level should be offered statewide for each product included in its program, regardless of differences in total incentive levels between utility service territories.

48. Can the State prevent consumers from receiving both a State and a utility rebate for the same appliance purchase?

A State can determine whether or not consumers are eligible to receive multiple rebates.

49. Can a State pay rebates to businesses, including landlords?

The EPACT statute says that a State shall be eligible to receive an allocation if the State establishes a program to provide rebates to "**residential consumers**." (42 USC 15821(b)(1); emphasis added) Additionally the statute says that rebates may be provided to "**residential consumers** that meet the requirements of the State program" (42 U.S.C. 15821(e); emphasis added). A landlord purchasing appliances for his or her properties is purchasing products not as a residential consumer, but as a commercial or business

consumer. Providing rebates to a landlord for purchases made in the landlord's business or commercial capacity would appear in opposite to the statute, and thus is not allowed.

50. How must a State document in-kind contributions? Will the sensitive information be protected?

To document in-kind contributions of administrative costs from third parties (e.g., retailers, utilities, manufacturers), a State must provide a commitment letter from the third party outlining the types of services to be provided and the estimated dollar value of those services. Recognizing that these letters may contain confidential or proprietary business information, DOE recommends that a State use one or more of the following options when gathering and submitting these letters to DOE:

1. Mark all letters as “confidential.” DOE General Counsel has advised that any document received marked “confidential” would not be released without permission from the originator.
2. Inform third parties that they can send their individual letters directly to DOE Procurement Officer Jeff Fogg on behalf of the State. In this situation, only contract officers working on the Appliance Rebate project will have access to the commitment letters. The contracting office has directly received letters from companies and industries in the past as part of a grant or solicitation package where there has been concern about propriety of information.
3. Ask the Statewide Retail Federation to aggregate retailer commitments into a single state-specific letter that lists all participants and activities, but only includes a single dollar amount.
4. If needed, D&R International can serve as the aggregator for a State. D&R currently holds “non-disclosure agreements” with all major retailers and can receive the letters and provide an aggregated figure to DOE to satisfy the Application requirements. This firm has held these agreements with ENERGY STAR partners for many years and has aggregated sales data yearly for calculating ENERGY STAR market share.

51. Can a State offer rebates to only low-income consumers?

Establishing special eligibility provisions that target a sub-set of the State’s residential population can increase administrative complexity and raise issues of fairness. The State Appliance Rebate Program was not established as a dedicated low-income program, and media stories have created expectations that the rebates will be widely available to all consumers. If a State wishes to serve only low-income or disabled residents, it must clearly justify its proposed approach in the program plan. The State must explain its rationale, outline how consumers will prove eligibility, and demonstrate that administrative costs will be reasonable. The State must also describe how it will communicate eligibility to residents and address any consumer or media questions related to fairness. If coordinating the delivery with other federally funded low-income programs, such as Weatherization, a State must also ensure that spending and program

impacts for each program are tracked separately. As noted previously (Question 27), the rebates must be paid to the individual consumer and not the CAP agency.

52. Does the Davis Bacon Act apply to the Appliance Rebate Program?

No, the DBA does not apply to the Appliance Rebate Program. The DBA only applies to laborers and mechanics performing construction at the work site. The Appliance Rebate Program does not involve the use of Laborers and mechanics performing construction at the work site. Additionally, the DBA does not apply to workers of the material suppliers who deliver and set up energy efficient appliances such as refrigerators, because material suppliers only spend an incidental amount of time performing work at the site.

See question #7 at

http://apps1.eere.energy.gov/state_energy_program/davis_bacon_faqs.cfm#multifamily

53. Is it allowable for a State to transfer ARRA funds to its rebate processing contractor in advance, instead of waiting until rebate applications have been processed and an invoice sent to the State?

Each State may decide how best to structure contractual relationships with its rebate processing firm in order to eliminate excessive delays in payments to consumers. Of course the State should work with its contractor to determine the appropriate frequency and size of fund transfers, and ensure proper tracking and reconciliation of all rebate funds issued. All SEEARP awards are under the Automated Standard Application for Payment (ASAP) system, which allows for advanced draws of funding by the State. The State is then responsible for proper management of the federal funding. Any special contractual arrangements that the State determines are necessary for the success of its program are to be determined by negotiation between the State and its contractor. Terms of such contracts should be made in such a way as to ensure that the funds are not misused.

54. Is it acceptable for a State to pay rebates for models that meet the ENERGY STAR efficiency level, but are not officially ENERGY STAR qualified?

States should verify that their program requirements for each covered product clearly align with (or exceed) all elements of the ENERGY STAR criteria. This is important because the ENERGY STAR criteria for some products include multiple elements. For example, the central air conditioner criteria include both SEER and EER levels, and the water heater criteria include safety, warranty, and performance aspects. As a result, requiring that a gas tankless water heater have an EF \geq 0.82 is NOT the same as requiring an ENERGY STAR qualified gas tankless water heater.

For water heaters and home appliances (refrigerators, freezers, dishwashers, clothes washers, and room AC), States must utilize the ENERGY STAR qualified product lists available at www.energystar.gov to determine specific models eligible for a rebate payment. These official ENERGY STAR lists include models that meet all aspects of the ENERGY STAR criteria and are updated frequently with data submitted by ENERGY STAR manufacturer partners. If a State is offering rebates for a level above ENERGY STAR, these lists can be sorted to select the subset that would be eligible.

For HVAC products (boilers, furnaces, central air conditioners, air-source heat pumps, and geothermal heat pumps), States should refer to the lists of ENERGY STAR qualified products found at www.energystar.gov, which are updated twice a month. For central air conditioners and air-source heat pumps, States should also utilize the separate searchable database at www.ceedirectory.org. This directory is a joint effort between the Consortium for Energy Efficiency (CEE) and the Air-conditioning, Heating, and Refrigeration Institute (AHRI), and includes models that meet or exceed the ENERGY STAR efficiency levels. Occasionally a consumer may purchase an efficient HVAC model that meets the designated efficiency requirements, but is not included on one of the lists. To avoid unnecessary consumer confusion or frustration, States may choose at their discretion to honor rebate requests for HVAC equipment that meets the ENERGY STAR efficiency criteria (or a higher level set by the State), but is not found on one of the above mentioned lists.

55. What is the difference between “proper disposal” and “recycling”?

Proper disposal: The old product being replaced is removed from the home and disposed of so it cannot be refurbished or re-sold. The old product is handled in accordance with all federal and state waste management laws, which at a minimum means refrigerants are captured. Proper disposal does not include recycling.

Recycling: The old product being replaced is removed from the home and taken to a recycling facility where the following occurs: the product is de-manufactured; all hazardous materials are handled in accordance with Federal, state, and local laws; and all recyclable materials (e.g. plastics, metals, and glass) are sorted and reprocessed into raw materials for future reuse.

56. Some refrigerator models were recently disqualified from the ENERGY STAR program. How does this affect State programs that are offering rebates for refrigerators?

On January 20, 2010, DOE and EPA disqualified 21 refrigerator models from the ENERGY STAR program because independent testing indicated they did not meet the efficiency criteria. This included 10 models sold under the LG brand, and 11 sold under the Sears/Kenmore brand. The disqualification was effective on that date and the affected models have been removed from the ENERGY STAR qualified product list. LG is working with retailers to remove the ENERGY STAR label from models that are in retail stores, but this may not happen immediately in all locations. DOE expects States to take reasonable steps to avoid issuing rebate payments for these non-qualified models. For example, States may wish to notify retailer partners that they will not be honoring rebates for these products, and incorporate language on their program web site informing consumers about these disqualified models. The affected LG models are: LFX21975ST, LFX25975SB, LFX25975ST, LFX25975SW, LMX25985SB, LMX25985ST, LMX25985SW, LFX28977ST, LFX28977SW, and LFX28977SB. The Sears/Kenmore models are: 79732, 79733, 79737, 79752, 79753, 79754, 79757, 79782, 79783, and 79789.

57. If a State or Territory has funds remaining at the conclusion of its program, what happens to the money?

If any program funds remain unspent at the end of the State's program, the dollars left on the award will be de-obligated and returned to DOE. States are encouraged to expend all awarded funds, and to anticipate any administrative cost reductions in advance so extra funds can be shifted into rebate payments if possible. Once the State issues a rebate to a consumer, whether in the form of a voucher, check, or pre-paid card, DOE considers the funds to be spent. DOE recognizes that States may be safeguarding rebate funds in an escrow or similar type of account until all payments are issued, and that there may be funds remaining in this account at the end of the program due to uncashed checks. To allow a timely closeout of the account, States may consider including an appropriate time limit or expiration date on all rebate checks. Any unclaimed rebate funds remaining after the program has concluded should be handled according to State law, e.g., transferred to unclaimed property or returned to the State's treasury. (2/24/10)

58. If a consumer acquires a new appliance through a "rent to own" arrangement, is the consumer eligible for a rebate? What about lay-away purchases?

Section 124 of the Energy Policy Act of 2005, which established DOE support for the Appliance Rebate Program, says that the State program must provide rebates for the **purchase** of energy-efficient appliances. Since rent-to-own agreements are leases they do not constitute a purchase, and are not eligible for a rebate. Under a lay-away arrangement, the sale of the product is not completed until the final payment is made and the consumer takes possession of the item. The date of that final lay-away payment would be the date of purchase for purposes of rebate eligibility. States should consider the complications of communicating this requirement to consumers before including lay-away purchases in their programs. (2/24/10)

59. Do States need to track and report on in-kind contributions received from third parties, such as retailers or utilities?

States do not need to include the dollar value of in-kind contributions in quarterly financial reports submitted to DOE. However, DOE expects that States will take reasonable steps to confirm that the promised in-kind support was actually provided. This could include gathering and storing copies of marketing materials or ads produced by the third parties, or securing a confirmation letter from the party outlining the steps that were taken. (2/24/10)

60. Is there any guidance or legal requirement from the federal government regarding "lawful presence" for SEEARP rebates?

The law governing SEEARP does not require consumers to prove lawful presence. As long as a State's program is following State laws, DOE does not have any input on this issue. Many States do require that consumers prove State residency in order to receive State rebate funds. (3/25/10)

61. Will States or payors be required to issue 1099 forms to consumers who receive rebates?

DOE received the following guidance from the Internal Revenue Service: "The Internal Revenue Service will treat payments to consumers funded by the \$300,000,000 ARRA appropriation (ARRA ENERGY STAR rebates) as reductions in the purchase price of the purchased product rather than income. Consequently, consumers must reduce the adjusted basis of property acquired with an ARRA ENERGY STAR rebate by its amount and must not treat that amount as an expenditure in determining any federal income tax deduction or credit. In addition, States and other payors of ARRA ENERGY STAR rebates are not required to report such payments on Forms 1099." (3/30/10)

The official memo can be found online at http://www.irs.gov/pub/iranoa/pmta_2009-165.pdf.

62. Can my state use a rebate processor that uses off-shore calling centers?

The Recovery Act does not prohibit a grantee from contracting with a company that relies on off-shore call centers (located outside of United States or its Territories). However EERE strongly discourages the use of off-shore call centers, given that one of the purposes of the Recovery Act is "to preserve and create jobs and promote economic recovery" in this country. (4/30/10)

63. Can my state increase the rebate on one or more of the products for which we are offering a rebate? How do we handle the consumers that have already received a rebate for the product(s) on which we are increasing the rebate amount?

States are allowed to increase the rebate amount for one or more products during the time-period of their program. However, states should be prepared to increase the rebate amount not just for rebates issued moving forward but also for all consumers that made a qualifying purchase and had received a rebate prior to the increase in the rebate amount. For example, if you are increasing a clothes washer rebate from \$25 to \$50 and have already awarded 1,000 \$25 rebates, those 1,000 consumers should receive an additional \$25 rebate.

This increase in rebates that had previously been awarded is not considered a retroactive rebate because the qualifying purchase had been made during the time period of program operation.

This requirement to provide additional rebates may have an impact on the administrative costs associated with the change in rebate amounts, and states should make sure they have an adequate administrative budget to cover these costs.

As with all changes to a program, you must communicate these changes via a request addressed to Lani MacRae at DOE and your D&R account manager; that request should include a revised budget tool and planning spreadsheet. (5/20/10)

64. Can my state add a new product to the portfolio of products we are rebating? How do we do this and when can consumers be eligible for these rebates?

It is perfectly acceptable to add new products to the portfolio of products eligible for rebates. To do so, please send the change request to Lani MacRae at DOE and to your D&R account manager, and include a revised budget tool and planning spreadsheet.

Rebates on products added after the program launch date are eligible for rebates only after the change has been approved by DOE, except when the change is being made to address losses caused by a natural disaster. In this case, DOE may determine that purchases made after the disaster but before the change request was approved are rebate-eligible. (5/20/10)

65. My state has over-budgeted for administrative costs and wants to shift some funds to rebate dollars. What is the process for doing that?

If the shift represents less than 10 percent of the overall budget, all that is needed is e-mail notification to Lani MacRae at DOE and your D&R account manager, along with a revised budget document and planning spreadsheet.

If the shift represents 10 percent or more of the overall budget, the shift will require approval from Idaho DOE. The request can be made via e-mail; please copy Jeff Fogg (foggjc@id.doe.gov) on your request. This request should not require a contract modification, but does require a revised budget document and planning spreadsheet; which should be included with your request. (5/20/10)

66. Our state's utility partner committed to providing in-kind support for the program. What happens if we disburse all of our rebate funds before the utility partner has had a chance to meet its in-kind marketing support obligations?

In accordance with the legislation authorizing this program, DOE cannot fund more than 50 percent of a state's administrative costs for the program. If a program ends sooner than anticipated, there may be a resulting reduction in the administrative budget. If a reduction does occur, whether for in-kind services or direct costs, the state should submit a revised budget to DOE for approval. The revised budget should reflect any reduction in administrative costs and it should demonstrate that the federal funding requested for administrative costs does not exceed 50 percent of the total administrative costs. (6/3/10)

67. Are there restrictions or concerns regarding how much and how fast we should draw down funds? (Note: See #85 for related information)

States must follow appropriate DOE procurement rules. Simply put, only draw down what you need in the short term, i.e., expenditures should be "same day," or "as close as is administratively feasible to actual disbursement."

In addition, be careful of interest-bearing accounts for these funds. While such accounts are not prohibited, interest earned on those funds must be spent on rebates before a state can spend the grant monies. Also, if you hold the funds long enough to collect interest, you could be questioned during an audit. (6/22/10)

68. A retailer, participating in our point-of-sale rebate program ran a special that offered a "free" dishwasher with the purchase of two other appliances. Can the vendor apply and receive a rebate for the dishwasher?

No, the retailer cannot receive the rebate. The rebate must be directly linked to a qualified purchase. If a consumer cannot show a purchase of the rebated appliance, then the state cannot provide a rebate. In addition, DOE specified that rebates must be clearly identified at the point of sale as the state rebate (rather than a retailer promotion or some other incentive program) and must be tracked and reported.

According to guidance DOE received from the Internal Revenue Service, “The Internal Revenue Service will treat payments to consumers funded by the \$300,000,000 ARRA appropriation (ARRA ENERGY STAR rebates) as reductions in the purchase price of the purchased product rather than income.” Giving away a free dishwasher is not a reduction in the purchase price – it is a gift. (7/15/10)

69. Must states pay retroactive rebates when increasing a rebate level for one or more product category(ies)?

No; it is within the discretion of the states to offer retroactive rebates. Previous program guidance suggested that states should be prepared to increase the rebate amount for rebates issued moving forward as well as for consumers that made a qualifying purchase and received a rebate prior to an increase in the rebate amount. (8/9/10)

70. Our state forwarded a large amount of SEEARP funding to our program implementer to cover administrative and rebate costs. Those funds have earned interest. Can that interest be used to cover administrative costs of the program?

Yes, but only approved administrative costs. Any interest accrued on program funds must be used for the program. States should not use interest to cover unanticipated or unapproved administrative costs. Any accrued interest should go toward paying administrative costs as outlined in the state’s existing DOE-approved budget.

Using interest to pay administrative costs should increase the total amount of money available for rebates. States may also use earned interest to pay rebates. As a reminder, states should keep advance funds in an account for no more than a week or two. (8/9/10)

71. Our state offers rebates for natural gas furnaces. Our program plan indicated that we would give rebates for gas furnaces but did not specify natural gas, propane, or both. Qualified ENERGY STAR gas furnaces include both natural gas and propane, but we initially decided to offer rebates only for natural gas furnaces. If we decide to make propane furnaces eligible for rebates, can we offer rebates retroactively on products purchased on or after the original launch date?

It is up to the state’s discretion whether to allow retroactive rebates on propane furnaces as they are basically the same product as natural gas furnaces. Inform DOE if you decide to add propane furnaces. Also, make sure to track separately natural gas furnace rebates and propane gas furnace rebates in upcoming quarterly reports and in the final report. (8/25/10)

72. Under what conditions may a state or territory apply to close its SEEARP program?

A state or territory may request to close its program when both of the following conditions are met:

1. All rebates must be completely closed:
 - Consumers may no longer submit applications; and
 - The state or territory will no longer process or pay out any rebates.
2. No more than 10 percent or \$20,000, (whichever is less) of total allocation is unaccounted for in the state or territory's SEEARP balance sheet. (11/23/10)

73. What should a state or territory do to formally close its program once the above conditions have been met?

1. The state or territory should notify DOE of its intent to close.
2. DOE will provide the state or territory with an "Intent to Close Notification" form.
3. The state or territory should fill out the "Intent to Close Notification" and return the completed form to DOE.
4. Once the completed form is received, DOE will review the request for approval.
5. Upon approval, Idaho DOE will send the Final Report Packet to the state or territory in preparation for program closeout.
6. Following DOE approval, the state or territory will continue to submit according to schedule:
 - Quarterly Progress Reports, through the last quarter of rebate payments
 - SF-425s, through the last quarter with administrative spending
 - OMB reports, through the last quarter with administrative spending
7. Within 90 days of approval, the state or territory will submit the Final Report Packet:
 - A Final Narrative Report
 - A Final Rebate Report
 - A Final Budget Report
 - Any other outstanding administrative items.
8. Within 90 days of approval, or by February 12, 2012 (whichever is earlier), the state or territory will draw down all remaining allocated funds.
9. Following completion of items 6, 7, and 8, DOE will notify the state or territory of final closure.

10. States and territories must apply to close their programs before the closure date listed in their official grant award contract agreements with DOE-Idaho.

(Revised #10 on 7/13/2011. Revised #9 on 12/31/10. Originally posted 1/23/10.)

74. What are DOE's requirements regarding SEEARP document storage and retention?

According to Federal Regulation 10 CFR 600.242 (b), documents must be retained by the state/territory for a minimum of 3 (three) years. Additionally, according to 10 CFR 600.242 (d), copies made by microfilming, photocopying, or similar methods, including electronic storage, may be substituted for the original records. States and territories should not rely on this direction solely but should also follow any additional state/territory regulations regarding document retention and storage applicable, following whichever is stricter. (12/14/10)

75. We are earning interest on our SEEARP grant funds. What do we need to do to report how we use those funds in our program?

There is no need to amend your grant agreement or your budget for the program. Just make sure the full amount of rebate funding (grant award + interest) is reported accurately in your final report including a separate line-item in the budget that shows how much interest income was earned and used for rebates. (12/28/10)

76. As of January 1, 2011 the clothes washer ENERGY STAR specification has been updated to be more stringent. What changes were made and how does this impact SEEARP programs?

There are two changes to the ENERGY STAR qualification process you need to be aware of:

1. The criteria change took effect on January 1, 2011 and there is no grace period. As of January 1, 2011, only products that meet the new criteria are ENERGY STAR qualified.
2. Products must not only meet the new specifications, but also be qualified by an independent Certification Body (CB).

The impacts of these changes are:

1. Clothes washers purchased on or after January 1, 2011: In order to receive a SEEARP rebate, they must be listed as qualified on the new qualified product list;
2. Clothes washers purchased before January 1, 2011: These models are still eligible for SEEARP rebates if they were ENERGY STAR qualified under the old spec;
3. ENERGY STAR qualified clothes washers are now substantially more efficient;
4. Fewer models qualify for ENERGY STAR;
5. As of January 21, 2011 the Qualified Product List (QPL) contained over 200 3rd-party certified clothes washer models. Additional models are being added to the list as quickly as Certification Bodies finalize their certification.
6. The QPL is expected to be fully populated by early February.

DOE is encouraging state programs that are rebating clothes washers to take the following steps:

- Update your state website to link to the current QPL.
<http://www.energystar.gov/ia/products/prod_lists/res_washers_prod_list.xls>. State on your website and other communications that customers should check the current QPL before purchasing to make sure the clothes washer is eligible by meeting the current criteria.
- Communicate to your retail partners about the spec change and the impact on your program. Refer them to the ENERGY STAR web site for more information.
- For purchases made on January 1, 2011 or after, please refer to the current qualified product list available at
<http://www.energystar.gov/ia/products/prod_lists/res_washers_prod_list.xls>.
- Wait to process rebates on clothes washer rebates made on or after January 1, 2011 until early February 2011, when the current QPL is fully populated. Additional models will be added as Certification Bodies certify their performance.

- Clothes washer models purchased before the criteria change date of January 1, 2011 and that were qualified under the old criteria are still eligible for rebates. Use the QPL from December 2010 on www.energystar.gov to identify these models: http://www.energystar.gov/ia/products/appliances/clotheswash/Qualified_CW_2010_Criteria.xls. (1/24/11)

77. A state or territory identified a consumer who received a rebate for an eligible purchase but returned the product for a refund without reimbursing the state the rebate amount. What should the State Energy Office do?

This is potentially a case of fraud and should be treated very seriously. The DOE Inspector General recently investigated a potential case of fraud, and there is a clear course-of-action for the State Energy Office to follow:

1. Inform DOE that one or more potential cases of fraud have been identified.
2. Determine if the State's Attorney General needs to be notified and involved. If so, do so.
3. Contact the consumer and tell them that the State has discovered that the product they received a rebate on has been returned to the store. Inform the consumer that this is potentially a fraudulent action and that the rebate needs to be returned in full to the State Energy Efficient Appliance Program. Document all contact with the consumer.
4. Communicate to DOE how the situation is resolved. Include all fraud investigations in the Final Report that will be submitted.

Reimbursed funds should be reused for other rebates. However, if the program has already closed to the public, the State can request that these funds be used for administrative costs incurred from dealing with the fraudulent activity. (2/16/11)

78. A state or territory identified a consumer who received a rebate but exchanged the original product for a different model of the same appliance type. What should an SEO do to demonstrate that a consumer exchanging a rebated product is not a case of fraud?

In efforts to follow up on product exchanges, the state or territory is responsible for proving that a product exchange is still eligible for a rebate and not a case of fraud. Recommended actions to demonstrate eligibility include:

For Mail-in Rebates:

1. Contact the consumer to determine if the product was exchanged for an eligible product or was returned.
 - If the consumer exchanged the originally-rebated appliance for the same model or another eligible product, it is very important to verify this claim in writing. Verbal verification with the consumer is not sufficient. For example, request a copy of receipts for exchanged or new models to confirm the 2nd appliance was purchased and that the model is eligible for the rebate. Give the consumer a deadline to submit this information. If the 2nd appliance is not eligible, the rebate must be returned.

- If the consumer did not exchange for a rebate-eligible appliance and returned the rebated product, they must return the rebate to the State. Otherwise, it is a fraudulent action that would require further action (possibly by the state's Attorney General or other appropriate authority).
 - If a consumer did not return a product to the store, require them to self-certify they did not. Also, if a consumer claims that they did not return a product but the Sears review shows they did, confirm that the receipt number and the one used in the review match to rule out a typing error.
2. List attempts to contact the consumer and document conversations AND correspondence. Submit them with the resolution in the final report to DOE. Record if the exchange was for an eligible product.

For Point-of-Sale rebates:

1. Confirm with participating retailers that they are not invoicing the state for returned products.
2. If a retailer invoices the state and is paid before a consumer returns a product, subtract the rebate amount of the returned product from the next invoice payment.
3. Document the resolution in the final report to DOE. (3/24/11)

79. If a state has designated utilities as sub-recipients, can they change that designation to vendors and if so, how? Additionally, are ARRA-funded vendors subject to audits?

States were not required to designate utilities as sub-recipients and should be able to change the designation if the state has determined the change to be appropriate. States should change the designation the same way they made the initial designation. Audit requirements under ARRA are the same for sub-recipients and vendors. (7/13/11)

80. Is an A-133 audit required prior to project close-out?

Maybe. Per federal regulations, if an A-133 audit is required, then the state should have it performed as spelled out in the A-133 requirements. The A-133 audit is not specific to or specifically required by the appliance rebate award and therefore, the two are not directly linked. However, the timing may be such that the A-133 audit is required before closeout. For example, where states received their federal funding at the beginning of the award and it is now well past the one-year mark, it is most probable that the audits should have already been performed. Because most states already have the A-133 audits done annually, this will likely not be an issue. Additional information about A-133 audits is at: http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010. (7/13/11)

81. Can a state target SEEARP funds to victims of natural disasters?

Yes. Section 124 of the Energy Policy Act of 2005 does not restrict state SEEARP programs from including a special eligibility provision that targets a sub-set of the state's residential population, such as rebates only for victims of natural disaster. However, a special eligibility provision can increase administrative complexity and raise issues of fairness. If a state wishes to direct SEEARP funds for disaster recovery, it must clearly justify its

proposed approach in an amendment to its program plan. DOE will need to review and approve the proposed plan prior to the state implementing it and issuing rebates.

In the amendment to its program plan, the state must explain its rationale, outline how consumers will prove eligibility, and demonstrate that administrative costs will be reasonable. The state must also describe how it will communicate eligibility to residents and address any consumer or media questions related to fairness. If coordinating the delivery with other federally funded programs, a state must also ensure that spending and program impacts are tracked separately for each program. The rebates must be paid to individual consumers. All other program rules remain in effect. (7/13/11)

82. Can a resident who receives an insurance benefit to cover completely the replacement cost of a damaged appliance be eligible to receive a SEEARP rebate? What about residents who receive a portion of the replacement cost from an insurance benefit?

A consumer who receives an insurance benefit of full reimbursement for replacement appliances lost due to a natural disaster should not also be eligible for a SEEARP rebate because the consumer would be getting a windfall from the SEEARP rebate. However, a resident who receives a portion of the replacement cost from insurance coverage could be eligible for a SEEARP rebate if the appliance is a residential ENERGY STAR appliance, if all other program rules are met, and if the sum of insurance coverage and the SEEARP rebate does not exceed the purchase cost of the appliance. (7/13/11)

83. How must a state or territory report in-kind contributions received in the final report?

In the Final Budget Report, states are required to:

- List all in-kind contributions in the “In-kind Funding” tab.
- Provide confirmation letters for all in-kind contributions listed.

In the Final Narrative Report, states are required to:

- List all in-kind contributions received. For each in-kind contribution listed, states should provide the name of the organization providing the in-kind contribution, a description of the in-kind contribution (funding, marketing, education, etc.), and the value of the contribution. Although DOE does not need supporting materials to be submitted, states are advised to save copies of representative materials to support these contributions in case of an audit. (7/13/11)

84. A state or territory used additional funds to provide more rebates through its SEEARP program. Should the SEO report these leveraged funds in the final report?

Leveraged funds are used by states to provide more rebates through their SEEARP program. Leveraged funds may come from other federal programs like SEP or EECBG or other state sources. Funds used to meet state match requirements are not considered leveraged funds.

- In the Final Budget Report, states must not include this leveraged funding. States should only report on funds provided by the SEEARP grant.

- In the Final Narrative Report, states should provide detail on any additional funding sources. States should indicate the total amount received per source, divided between amounts used for administrative costs and for rebates.
- In the Final Rebate Report, states must not include rebates funded by sources other than SEEARP. DOE requests that states provide, as an addendum, the template for the Final Rebate Report populated with the rebate transactions funded by these other sources. (7/13/11)

Example: State A received and expended \$1 million of SEEARP funds on rebates and administrative costs. Because of the rebates' popularity, State A decided to use \$500,000 from SEP funding to continue the program for 2,000 additional rebates.

- In the Final Budget Report, State A must not include any of the SEP funding. This report must reflect only the \$1 million SEEARP grant and the state's cost-share.
- In the Final Narrative Report, Section VII, Program Results, E. Future Plans, State A should list each additional funding source and the amount, and break out the administrative and rebate costs. Also indicate how many rebates were distributed per appliance.
- In the Final Rebate Report, State A must not include any appliances that were funded by sources other than SEEARP. DOE requests that states provide, as an addendum, the same report for these additional rebates funded by non-SEEARP sources. (7/13/11)

85. Can a State or Territory draw-down funds based on rebate applications received but not yet approved? (Note: See #67 for related information)

Yes, however there are several things the State or Territory should consider:

- The State should only draw down the funds for the applications they anticipate will be approved soon. The anticipated approvals will be based on the state's history of the period of time required from the receipt of the rebate application to its payment.
- The State should also consider the breakage or the percentage of rebates that are denied. For example, if the breakage is 20%, the State should consider drawing down an amount that reflects a corresponding reduction from the possible total rebate payments.
- The State should have procedures in place to minimize the gap between the draw-down and the expenditure.
- The State should not draw down based on anticipated applications, only those that have been received and are being processed. (9/7/11)